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REMARKS

Applicant wishes to thank the Examiner for the detailed remarks. Claim 17 has been amended to address the Examiner's Objection. Accordingly, claims 1, 4-8, and 15-23 are pending.

Claims 1, 4-8 and 15-23 were rejected under 35 U.S.C. §102(b) as being anticipated by *Hockley* (5699880.) Applicant respectfully traverses this rejection. The Examiner interprets elements 32, 34 and 36 as the "overstroke indicator system" which is mounted to the housing. Notably, only indicator 36 articulates in any way. (*See Figure 3*) Elements 32 and 34 are simple fixed reference pointers which toggle the indicator 36 as it is moved along with the pushrod 16 past the fixed reference pointers. No justifiable interpretation can interpret the fixed reference pointers 32, 34 as an "overstroke indicator system" as only element 36 is identified by *Hockley* as an "indicator."

The Examiner also attempts to interpret any portion of the device as a housing portion. Element 36 is mounted to a clevis of the push rod 16 which drives the brake arm 18. That is, element 36 is mounted to neither a housing nor the brake arm 18 but to the pushrod 16 which is moved with the brake arm 18 (*best seen in Hockley Figure 6*). The Examiner's interpretation cannot be supported as the indicator 36 is movable with the pushrod clevis which under no just interpretation can be considered a housing portion. Otherwise the coming meaning of what is a housing and what is a movable member is rendered nonsensical. Applicant requests reconsideration of these rejections.

In the rejection of claims 4-7, the Examiner attempts to suggest that the indicators are "located in an angular position relative to the pivot axis adjacent a path of rotation of the shaft assembly" as recited in the claims. As noted above, however, the fixed reference pointers 32, 34 cannot properly be considered an "overstroke indicator system" as only element 36 is identified by *Hockley* as an "indicator" of any sort and element 36 moves with the push rod 16. Furthermore, the fixed reference pointers 32, 34 are not located at an "angular position" as the pointers are located parallel to the pushrod 16 to which the indicator 36 is mounted. That is, the fixed reference pointers 32, 34 are not indicators and are not located at an angular position as specifically recited in claim 4 because the pushrod 16 moves in a linear manner.

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Claim 6 recites said overstroke sensor located in an angular position relative to said pivot axis adjacent a path of rotation of a tab extending from said operating shaft assembly opposite an end segment. *Hockley* fails to disclose or suggest any type of sensor opposite the end segment of the operating shaft.

Claim 8 specifically recites that said mechanical overstroke member comprises a flexible strip which buckles in response to contact with said operating shaft. Initially, indicator 36 cannot be justifiably interpreted as a flexible strip – it is a switch. It is also mounted to the movable pushrod 16 which is not a housing.

The Examiner suggests that the method claims 17-20 are inherent to the device of *Hockley*. This cannot be sustained for at least the reasons discussed above.

Claims 1, 4-7, 17-20 and 22-23 were rejected under 35 U.S.C. §102(b) as being anticipated by *White* (H2026.) Applicant respectfully traverses this rejection. *White* discloses a switch 56 which has been mounted to a mounting boss 55 formed as part of the attachment clevis 51 and positioned to face a side of the actuator lever 36 such that when the angle between the actuator rod 40 and the actuator lever 36 decreases to a given value, the actuation plunger 57 of the switch 56 contacts the actuator lever 36 as shown in FIG. 4. The Examiner again attempts to interpret the movable clevis 51 as a “housing portion.”

While it is well settled that terms in a claim are to be given their broadest reasonable interpretation in proceedings before the PTO, this interpretation must be consistent with the specification, with the claim language being read in light of the specification as it would be interpreted by one of ordinary skill in the art. *In re Bond*, 910 F.2d 831, 833, 15 USPQ2d 1566, 1567 (Fed Cir. 1990); *In re Sneed*, 710 F.2d 1544, 1548, 218 USPQ 385, 388 (Fed Cir. 1983).

Here, the Examiner is suggesting an interpretation that specifically contradicts and is not consistent with the specification. A movable clevis cannot be properly considered as a housing portion under any interpretation – no matter how broadly construed. The claims are properly allowable.

Claims 8 15, and 21 were rejected under 35 U.S.C. §103(a) as being unpatentable over *White* (H2026) in view of *Hockley* (5699880). Applicant respectfully traverses these rejections as

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there is absolutely no teaching, suggestion, or motivation to modify *White* (H2026) in view of *Hockley* as proposed. A proper suggestion or motivation to make a combination requires some benefit to result from the combination. When the additional teachings of a secondary reference do not provide any benefit to the arrangement disclosed in a primary reference, no prima facie case of obviousness exists. Both of the cited references mount the indicator on a movable member – not on a housing. In fact, both references mount the indicator on a pushrod clevis. See item 51 of *White Figure 6* and item 36 in Figures 6, 7, and 8 of *Hockley*. There is no benefit to make the proposed combination because each reference discloses the same mounting location for the associated “indicator.” Because this combination provides no benefit and, therefore, is improper, there is no prima facie case of obviousness.

Even if the combination were properly made, there are differences between the claimed invention and the teachings of the cited references so that the combination does not meet the limitations of Applicant's claims. The Examiner admits that *White* fails to disclose a buckling member. The Examiner attempts to correct this deficiency by referring to the members 32, 34 of *Hockley*. However, as discussed above, the members 32 and 34 are fixed reference pointers mounted to a bracket 30 (Figure 4). The pointers are not “flexible,” are not “strips,” and do not buckle in any way – they are fixed. Even if the combination were proper, the proposed combination fails to disclose a flexible strip which buckles toward an outer surface of said housing portion as recited in the claims 8, 15 and 21.

Applicant believes that no additional fees are required. However, should any additional fees or extensions of time be required, the Commissioner is authorized to charge Deposit Account No. 50-1482, in the name of Carlson, Gaskey & Olds, P.C.

08/01/2005 MON 14:12 FAX 12489888363 Carlson, Gaskey & Olds

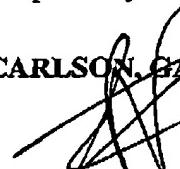
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Applicant respectfully submits that this case is in condition for allowance. If the Examiner believes that a teleconference will facilitate moving this case forward to being issued, Applicant's representative can be contacted at the number indicated below.

Respectfully Submitted,

CARLSON, GASKEY & OLDS, P.C.


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Dated: August 1, 2005

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